



**MINUTES
FREMONT PLANNING COMMISSION
REGULAR MEETING OF NOVEMBER 7, 2002**

CALL TO ORDER: Chairperson Manuel called the meeting to order at 7:00 p.m.

PRESENT: Chairperson Manuel, Commissioners Arneson, Cohen, Harrison, Thomas, Weaver

ABSENT: Commissioner Wieckowski

STAFF PRESENT: Kathleen Livermore, Senior Planner
Michael Barrett, Senior Deputy City Attorney
Barbara Meerjans, Associate Planner
Andrew Russell, Associate Civil Engineer
Kathleen Chu, Associate Civil Engineer
Rob Wilson, City Engineer
Shannon George, EIR Consultant
Alice Malotte, Recording Clerk
Chavez Company, Remote Stenocaptioning
Mark Edes, Video Technician

APPROVAL OF MINUTES: Regular Meeting of October 24, 2002 Minutes with the following corrections:

Chairperson Manuel's absence was due to a death in her immediate family.

Commissioner Cohen's recusal on Item 5 was not reflected in the vote and Commissioner Harrison's recusal on Items 4 and 6 was not reflected in the votes.

THE CONSENT LIST CONSISTED OF ITEM NUMBER 1.

IT WAS MOVED (HARRISON/WEAVER) AND UNANIMOUSLY CARRIED BY ALL PRESENT THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTION ON ITEM NUMBER 1.

Item 1. **SADDLE RACK NIGHTCLUB – 42011 Boscell Road – (PLN2003-00038)** - to consider a Conditional Use Permit for a nightclub for developed property located in the Industrial Planning Area. This project is categorically exempt from CEQA review under Section 15332, In-Fill Development Projects. (Continued from October 24, 2002.)

MODIFICATION TO THE CONDITIONS:

1. Approval of PLN 2003-00038 for a nightclub shall conform to Exhibit "A" (Site Plan, Conceptual Landscape Plan, Elevations, Floor Plans). *The use permit is effective upon the effective date of Ordinance 2492 (December 6, 2002).*

6. The business operator may provide a variety of entertainment including ~~country~~-music concerts, live music and performances, dancing, billiards, dance instruction, and radio broadcasting.

IT WAS MOVED (HARRISON/WEAVER) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-0-1) THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

AND

FIND PLN2003-00038 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE CHAPTER AS ENUMERATED WITHIN THE STAFF REPORT;

AND

APPROVE PLN2003-00038, AS SHOWN ON STAFF ANNOTATED EXHIBIT "A", SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT "B".

The motion carried by the following vote:

AYES: 6 – Arneson, Cohen, Harrison, Manuel, Thomas, Weaver
NOES: 0
ABSTAIN: 0
RECUSE: 0
ABSENT: 1 - Wieckowski

PUBLIC COMMUNICATIONS

ORAL COMMUNICATIONS - None

PUBLIC HEARING ITEMS

- Item 2. PASEO PADRE ESTATES – 40720 Paseo Padre Parkway – (PLN2002-00003)** – to receive oral and written comments from the public and the Planning Commission on the Paseo Padre Estates Draft Environmental Impact Report (DEIR) (SCH# 200201089). The proposed project is a General Plan Amendment to change the land use designation from Open Space .25 dwelling units per acre to Medium Density Residential 6.5 -10 dwelling units per acre on a 19.1 acre site located in the Central Planning Area. Public review period for the DEIR started on October 2, 2002 and will end on November 15, 2002.

Senior Planner Livermore clarified that staff would not respond to comments and questions made by the public and the Commission, as that would be done in the Final Environmental Impact Report. She introduced Associate Planner Meerjans and Shannon George, consultant with David J. Powers and Associates.

Associate Planner Meerjans stated that there was a 45-day review period for comments from the public. The Draft EIR and the Final EIR would make up the entire report upon which future decisions would be based.

Shannon George, consultant, stated that the proposed project would have the following environmental impacts that could be mitigated:

- Construction activities, such as dust, increased noise and disruption of local traffic circulation, would negatively impact neighbors
- Increased soil erosion, due to grading
- Increased surface water flowing from project site into local drainage lines
- Significant impacts to vegetation and wildlife, such as loss of riparian habitat, loss of willow habitat, loss of seasonal wetlands, loss of trees, and disturbance or loss of special status species and migratory birds

- Hazardous materials could cause negative impacts to the residents if the active rail line were to experience a spill or derailment
- Interior noise levels could exceed 50 decibels and outside noise levels could exceed 70 decibels as a result of the project's proximity to the active rail line
- Ground borne vibration levels could exceed the Federal Transit Administration Criteria for Residences

Ms. George continued by noting the following significant and unavoidable environmental impacts:

- Implementation of the proposed project without utility easement through the San Francisco Public Utility Commission parcel
- The project would not provide two points of access for residents or emergency vehicles to and from the site, as required by the General Plan and the Municipal Code

Vice Chairperson Arneson wondered why there was little discussion about the impact that would be made by the proposed Bay Area Rapid Transportation (BART) station in that area.

Senior Planner Livermore stated that her question would be commented upon in the Final EIR.

Chairperson Manuel opened the public hearing.

Norman Howell asked for 10 minutes to speak and his request was granted by the Commission. His concerns were as follows:

- Why Option 1 would not be considered, which essentially stated that the property should be left as is
- The only two points of access could be lost during an emergency, such as earthquake
- In 1999, water stood on this property for several weeks, which could be mitigated only by massive dirt moving and pumping
- Water table was 2.3 to 3.3 feet below ground level, on which, in his opinion, nothing could safely be built
- BART planned to build its tracks through the middle of the prime, buildable portion of the property
- This property was natural, open space and should be left natural. He believed that the City should purchase the property to allow citizens to study organisms in an unaltered riparian and wetland habitat
- The shrub willow was to be protected. However, the surrounding land needed to stay open to make the protection a viable, biological option for other vegetation and animals, such as the California gray fox, which was not mentioned in the draft EIR. He believed that the red-legged frog could be reintroduced to the area and would become viable. The property was used as a significant nesting and feeding area for migratory birds, which was completely ignored in the draft EIR
- Previous seismic activity in the area was ignored and no indication was made as to what might happen in the future

Dick Wenzel, Bay Area Rapid Transit (BART), stated that the transportation portion of the change to the General Plan was not addressed in the Draft EIR. It did not adequately address how the site physical limitations would be mitigated. It did not adequately address the previously adopted Warm Springs BART station, which was included in the General Plan Map and was approved by 80 percent of Alameda County voters in November, 2000. He stated, "Implementation of the proposed development as the result of redesignating the land use could preclude the BART extension." The DEIR failed to consider the consequences of precluding BART and the impact those potential riders would have on traffic. Insufficient

emergency access was a significant unavoidable impact, as noted in the DEIR. In his opinion, the DEIR was legally inadequate and incomplete. He recommended that the DEIR be revised and recirculated. He stated that formal written documents addressing BART's concerns would be submitted to the City.

Roger Shanks, applicant's representative, stated that several pages of comments that responded to the DEIR had been submitted to staff.

Commissioner Thomas asked if the owners of the neighboring golf driving range had been approached about acquiring some of their property.

Mr. Shanks replied that he was not aware that the managers of the driving range had been approached. He believed that a private company managed the driving range, but the range was on City land.

Chairperson Manuel closed the public hearing.

Commissioner Harrison suggested that it would be helpful if discussions were included in the Final EIR about how BART, the grade separation and the track alignment would impact the project.

Commissioner Thomas suggested that this property could only be used for housing, if the driving range were expanded, allowing another access to be created. She could not understand building housing on this property at this time. She suggested looking at more options for the property.

Chairperson Manuel agreed with the comments made by Mr. Howell and Mr. Wenzel. She assumed that mitigation costs would cause the cost of the homes to be very high, which, in her opinion, was "criminal" when one took into consideration the City's need for affordable housing. She noted contradictory statements concerning the local schools and their ability to accommodate more children. She suggested that the impact on schools should be reviewed. There was no discussion of the design of the grade separation and it was important to know what its implications would be on the people living in the new project and to the traffic along Paseo Padre Parkway.

Vice Chairperson Arneson stated that the DEIR was neither complete nor accurate. BART could not be left out, as it was a major issue. There was not enough information in the DEIR to make a decision as to whether a housing development was even feasible in that location. No project should preclude BART coming to Warm Springs and on to San Jose. She suggested that the significant, unavoidable impacts and all of the issues brought up by Mr. Howell and Mr. Wenzel be addressed before the Final EIR was brought back for approval.

Chairperson Manuel was concerned about the visual impacts that the grading would have on the park and the surrounding neighborhoods. She asked, "Does every piece of property in the City of Fremont need to be developed? I don't think so." She agreed with Mr. Howell about leaving the property untouched.

Vice Chairperson Arneson asked if this property was part of a transportation corridor, how could it not be a major part of the analysis?

Commissioner Weaver agreed with Vice Chairperson Arneson's comments concerning the BART impact. She agreed that BART was the priority, not the development of this particular area. One emergency access was not adequate and the EIR did not satisfactorily address it.

Senior Planner Livermore invited the public to comment on the draft EIR in written form before November 15th at 5:00 p.m.

Vice Chairperson Arneson asked if all of the comments made by the Planning Commission would be included in the EIR responses. She asked if the Commissioners needed to write separate letters.

Senior Planner Livermore stated that all comments would be included. Separate letters were not needed. All the comments would be responded to in the Response to Comments document. She noted that oral comments would be closed following the public hearing.

HOLD PUBLIC HEARING TO RECEIVE WRITTEN AND ORAL COMMENTS/TESTIMONY FROM THE PUBLIC AND PLANNING COMMISSION.

AND

REFER COMMENTS ON DRAFT EIR FROM THE PUBLIC AND PLANNING COMMISSION TO THE EIR CONSULTANT FOR RESPONSES TO BE INCLUDED INTO THE FINAL EIR.

- Item 3. PACIFIC COMMONS PLANNED DISTRICT GUIDELINES SUPPLEMENT "A" – Auto Mall Parkway at Christy Street – (PLN2003-00015)** – to consider a Planned District Minor Amendment replacing Chapter IV, sections H, I, J and K of the "Pacific Commons Master Plan 2000 Planned District Development Standards and Guidelines" for P2000-214 with "Supplement A", Standards and Guidelines for site furniture, project identification, signage and lighting. An EIR and Supplemental EIR were previously approved for the Pacific Commons project.

Molly Mayburn, Director of Development for Catellus Development Corporation, introduced Ken Kay, master planner and landscape architect, and Paul Prasier, designer for the custom signs and street furniture.

Ken Kay asked if the Commission preferred that he answer questions or if he should make a presentation.

Chairperson Manuel replied that the Commission would ask questions, as a presentation was not needed, because the report was in depth and very well done.

Commissioner Thomas liked everything that was presented.

Chairperson Manuel echoed her comments. The applicant took the Commission's comments to heart and brought together all the elements to make an impressive presentation.

Mr. Kay thanked Chairperson Manuel and stated that the team that included Ms. Mayburn and Mr. Prasier worked hard to create the unique identity that the Commission had envisioned.

Vice Chairperson Arneson agreed that the project was very well done. She asked why a wooden bench was to be used under the bus shelter, rather than the metal bench, which would far outlast a wooden bench.

Ms. Mayburn stated that there would be two different benches. The wooden bench would be located on the pedestrian trail and was chosen to fit better within the natural area. The metal benches would be used for the bus shelters and would be used more than the bench located on the pedestrian trail.

Commissioner Cohen stated that his personal architectural approach tended to be more traditional and arts and crafts. However, this modern approach was very attractive and he felt that some of the furniture, such as the wooden bench, could be looked at as art.

Vice Chairperson Arneson complemented the applicant on the unique design of the roof on the bus shelter and the signage.

Commissioner Weaver agreed with the rest of the Commission and complemented the applicant for a job well done.

Commissioner Thomas especially liked the design of the lights.

Commissioner Harrison offered to make a motion.

Chairperson Manuel opened and closed the public hearing.

IT WAS MOVED (HARRISON/THOMAS) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-0-1) THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

AND

RECOMMEND THAT CITY COUNCIL FIND THAT AN EIR AND SUPPLEMENTAL EIR WERE PREVIOUSLY APPROVED FOR THE PACIFIC COMMONS PROJECT; AN ADDENDUM WAS PREPARED AND ADOPTED FOR THE PLANNED DISTRICT MAJOR AMENDMENT FINDING THE PROJECT TO BE CONSISTENT WITH THE ORIGINAL PLAN AND EIRS. THE PROPOSED "SUPPLEMENT A" PROVIDES DESIGN GUIDANCE FOR SITE FURNITURE, PROJECT IDENTIFICATION, SIGNAGE, AND LIGHTING FOR THE APPROVED PLANNED DISTRICT DEVELOPMENT. "SUPPLEMENT A" PROVIDES FOR NO DEVELOPMENT NOT ALREADY APPROVED FOR THE PLANNED DISTRICT, AND IS CONSISTENT WITH THE ORIGINAL APPROVAL. NO FURTHER ENVIRONMENTAL REVIEW IS NECESSARY;

AND

FIND PLN2003-00015 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN AS ENUMERATED WITHIN THE STAFF REPORT;

AND

RECOMMEND THAT THE CITY COUNCIL APPROVE PLN2003-00015 PLANNED DISTRICT MINOR AMENDMENT, AS SHOWN ON EXHIBIT "A", SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT "B".

The motion carried by the following vote:

AYES: 6 – Arneson, Cohen, Harrison, Manuel, Thomas, Weaver

NOES: 0

ABSTAIN: 0

RECLUSE: 0

ABSENT: 1 - Wieckowski

- Item 4. BELVOIR SPRINGS – 36990 Mission Boulevard – (PLN2003-00040)** - to consider a Conditional Use Permit to legalize an existing non-conforming two bedroom single family residence and demolition of a building. This project is categorically exempt from CEQA review under Section 15301 Existing Facilities.

Sandy Sloane, applicants' representative, stated that the building that was to be demolished had been deemed of no historical value and that the applicants were retired and planned to spend all their time renovating the two-bedroom, non-conforming, single-family residence.

Richard Marlais, asked for delay of any action on this project, as he had a similar project and had been asked to perform a historical evaluation, which was not required of the applicant. He was questioning the fairness of the rezoning and Conditional Use Permit process.

Ms. Sloane asked that the application for a Conditional Use Permit be approved.

Chairperson Manuel closed the public hearing.

Senior Planner Livermore confirmed that the building to be demolished had been evaluated and deemed of no historical value. She also stated that Mr. Marlais' application was scheduled to come before the Planning Commission the near future and could be considered at that time.

IT WAS MOVED (WEAVER/THOMAS) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-0-0-1) THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

AND

FIND PLN 2003-00040 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT;

AND

APPROVE PLN 2003-00040, AS SHOWN ON EXHIBIT "A", SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT "B".

The motion carried by the following vote:

AYES: 6 – Arneson, Cohen, Harrison, Manuel, Thomas, Weaver
NOES: 0
ABSTAIN: 0
RECUSE: 0
ABSENT: 1 – Wieckowski

MISCELLANEOUS

Information from Commission and Staff:

- Information from Staff:
- Information from the Commission:
 - The Commissioners discussed with staff agenda items on tentative agendas that had been distributed. Staff clarified some of the items and indicated the Wal-Mart EIR and Use Permit would be heard on December 12, not November 21 as originally planned.
 - Commissioner Weaver stated that she was unsure if she would attend the next meeting on November 21st.
 - Commissioner Cohen passed Congress for New Urbanism material to the other Commissioners and staff.

Meeting adjourned at 8:05 p.m.

SUBMITTED BY:

APPROVED BY:

Alice Malotte
Recording Clerk

Kathleen Livermore, Acting Secretary
Planning Commission